



भारत का राजपत्र The Gazette of India

असाधारण

EXTRAORDINARY

भाग II — खण्ड 2

PART II — Section 2

प्राधिकार से प्रकाशित

PUBLISHED BY AUTHORITY

सं. 2] नई दिल्ली, बृहस्पतिवार, मार्च 10, 2005 / फाल्गुन 19, 1926
No. 2] NEW DELHI, THURSDAY, MARCH 10, 2005 / PHALGUNA 19, 1926

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।
Separate paging is given to this Part in order that it may be filed as a separate compilation.

RAJYA SABHA

The following Bills were introduced in the Rajya Sabha on 10th March, 2005:—

I

BILL NO. XXIX OF 2005

A Bill further to amend the Standards of Weights and Measures (Enforcement) Act, 1985.

Be it enacted by Parliament in the Fifty-sixth Year of the Republic of India as follows:—

1. (1) This Act may be called the Standards of Weights and Measures (Enforcement) Amendment Act, 2005.

Short title
and com-
mencement.

(2) It shall come into force on such date as the Central Government may, by notification, appoint.

Amendment
of section 5.

2. In section 5 of the Standards of Weights and Measures (Enforcement) Act, 1985 (hereinafter referred to as the principal Act),—

54 of 1985.

(a) after sub-section (1), the following sub-section shall be inserted, namely:—

“(1A) The Central Government may, by notification, prescribe the qualifications for being appointed as the Additional, Joint, Deputy and Assistant Controllers and the Inspectors under sub-section (1).”;

(b) in sub-section (4), the following proviso shall be inserted, namely:—

“Provided that the Controller shall exercise his powers and discharge the duties of his office subject to such general or special directions, as the Director may, from time to time, give and such directions shall be binding on the Controller.”.

Amendment
of section 10.

3. In section 10 of the principal Act,—

(a) in sub-section (1), for the words “State Government”, the words “Central Government” shall be substituted;

(b) after sub-section (1), the following sub-section shall be inserted, namely:—

“(1A) Notwithstanding anything contained in sub-section (1), the Central Government may, by rules made in this behalf, direct, in respect of those class of goods or services or undertakings or users specified therein, that no transaction, dealing or contract shall be made except by such weighing or measuring instrument as may be specified in such rules.”;

(c) in sub-section (2), after the word and figure “sub-section (1)”, the words, figure and letter “or sub-section (1A)” shall be inserted.

Omission of
section 12.

4. Section 12 of the principal Act shall be omitted.

Amendment
of section 15.

5. In section 15 of the principal Act, in sub-section (1), for the words “Where the State Government”, the words “Where the Central Government” shall be substituted.

Omission of
sections 16,
17 and 18.

6. Sections 16, 17 and 18 of the principal Act shall be omitted.

Amendment
of section 19.

7. In section 19 of the principal Act,—

(a) after sub-section (1), the following sub-section shall be inserted, namely:—

“(1A) Any licence issued by the Central Government or a State Government to a manufacturer,—

(a) for selling the weight or measure manufactured by him;

(b) for repairing the weight or measure manufactured and sold by him,

shall be valid throughout the country.”;

(b) in sub-section (7), for the words “two hundred rupees”, the words “one thousand rupees” shall be substituted;

(c) in sub-section (8), for the proviso, the following proviso shall be substituted, namely:—

“Provided that no sale of any weight or measure of the prescribed description, not being a weight or measure for use for domestic purposes, shall be made except with the written permission of the Controller or any officer authorised by him in this behalf.”.

8. In section 21 of the principal Act clause (b) shall be omitted.

Amendment
of section 21.

9. For section 22 of the principal Act, the following section shall be substituted, namely:—

Substitution
of new
section for
section 22.

“22. No weight or measure shall be sold or offered, exposed or possessed for sale in any transaction, or for industrial production or for protection unless it has been verified and stamped.”.

Prohibition
of sale of
unstamped
weight or
measure.

10. In section 24 of the principal Act, —

Amendment
of section 24.

(a) in sub-section (1), the following proviso shall be inserted, namely:—

“Provided that the verification, of the weight or measure as prescribed under the Standards Act, shall be made by the special verification agents under that Act.”;

(b) in sub-section (2), for the words “as may be prescribed”, the following shall be substituted, namely:—

“as prescribed under the Standards Act:

Provided that re-verification, of such weight or measure verified by the special verification agents under the Standards Act, may be made by the agents at such periodical intervals as prescribed under that Act.”;

(c) in sub-section (3), for the proviso, the following provisos shall be substituted, namely:—

“Provided that in respect of the weight or measure, as may be prescribed, the Inspector shall take steps for the verification of such weight or measure at the place of its location:

Provided further that the verification of such weight or measure, as prescribed under the Standards Act, shall be made by the special verification agents under that Act.”;

(d) sub-sections (4), (5) and (6) shall be omitted.

11. For section 25 of the principal Act, the following section shall be substituted, namely:—

Substitution
of new
section for
section 25.

“25. (1) Every certificate of verification granted under this Act shall be displayed in a conspicuous place in the premises where such weight or measure is being, or is intended or likely to be, used in any transaction or for industrial production or for protection.

Procedure for
verification
and display of
certificate of
verification.

(2) Where any verification has been made under sub-section (3) of section 24, the Inspector shall grant, to the person referred to in sub-section (1) of that section, a certificate in the prescribed form indicating therein the particulars of the weight or measure verified and stamped by him.

(3) Where the Controller is of opinion that by reason of the size or nature of any weight or measure, it is not desirable or practicable to put a stamp thereon, he may, by an order in writing, direct that instead of putting a stamp on such weight or measure, a certificate may be issued to the effect that such weight or measure conforms to the standards established by or under the Standards Act and every weight or measure so certified shall be deemed to have been duly verified and stamped under this Act on the date on which such certificate was issued.

(4) Every certificate referred to in sub-section (3) shall be in such form as may be prescribed and shall contain such details as to enable a clear identification of the weight or measure to which it relates.”.

Amendment
of section 27.

12. In section 27 of the principal Act, in sub-section (1), the following proviso shall be inserted, namely:—

“Provided that in the case of weight or measure verified and stamped by the special verification agents under the Standards Act, the Inspector may inspect only genuineness of such stamping.”

Insertion of
new section
31A.

Application of
sections 27 to
31 to certain
commodities.

13. After section 31 of the principal Act, the following section shall be inserted, namely:—

‘31A. The provisions of sections 27, 28, 29, 30 and 31 shall apply in relation to pre-packed commodities and commodities sold by number as they apply in relation to weight or measure referred to in those sections.

Explanation.—For the purposes of this section, “pre-packed commodity” with its grammatical variations and cognate expressions, means a commodity or article or articles which, without the purchaser being present, is placed in a package of whatever nature, so that the quantity of the product contained therein has a pre-determined value and such value cannot be altered without the package or its lid or cap, as the case may be, being opened or undergoing a perceptible modification.’

Substitution of
new section
for section 33.

14. For section 33 of the principal Act, the following section shall be substituted, namely:—

Provisions of
the Standards
Act and the
rules made
thereunder
relating to
commodities
in packaged
form to apply
to commodi-
ties in
packaged
form sold or
distributed
within the
State.

‘33. The provisions of the Standards Act and the rules made thereunder with regard to commodities in packaged form shall apply to every such commodity which is made, manufactured, packed, distributed, sold, or kept, offered or exposed for sale, in the State as if the provisions aforesaid were enacted by, or made under, this Act subject to the modification that any reference therein to the “Central Government”, “Standards Act” and “Director” shall be construed as references respectively, to the “State Government”, “this Act” and the “Controller”.’

Amendment
of section 37.

15. In section 37 of the principal Act,—

(a) for the marginal heading, the following marginal heading shall be substituted, namely:—

“Penalty for counterfeiting of seals, fraudulent use of weight or measure, etc.”.

(b) in sub-section (1),—

(i) in clause (vii), after the words “alters in any way any weight or measure”, the words “or uses any weight or measure fraudulently” shall be inserted;

(ii) for the words “imprisonment for a term which shall not be less than six months but which may extend to two years, and, for the second or subsequent offence, with imprisonment for a term which shall not be less than one year but which may extend to five years and also with fine” the words “fine which may extend to ten thousand rupees, and, for the second or subsequent offence, with imprisonment for a term which shall not be less than six months but which may extend to two years” shall be substituted;

(c) in sub-sections (2), (3) and (4), for the words “imprisonment for a term which shall not be less than six months but which may extend to two years, and, for the second or subsequent offence, with imprisonment for a term which shall not be less

than one year but which may extend to five years and also with fine", wherever they occur, the words "fine which may extend to ten thousand rupees, and, for the second or subsequent offence, with imprisonment for a term which shall not be less than six months but which may extend to two years" shall be substituted.

16. In section 38 of the principal Act,—

Amendment
of section 38.

(a) for sub-section (1),—

(i) for the words "five hundred rupees", the words "two thousand rupees" shall be substituted;

(ii) for the words "two thousand rupees", the words "five thousand rupees" shall be substituted;

(iii) for the words "one year and also with fine", the words "one year, or with fine, or with both" shall be substituted;

(b) in sub-section (2),—

(i) for the words "five hundred rupees" the words "two thousand rupees" shall be substituted;

(ii) for the words "two thousand rupees" the words "five thousand rupees" shall be substituted;

(iii) for the words "one year and also with fine", the words "one year, or with fine, or with both" shall be substituted.

17. In section 39 of the principal Act,—

Amendment
of section 39.

(a) sub-section (2) shall be omitted;

(b) in sub-section (3),—

(i) for the words "two thousand rupees", the words "ten thousand rupees" shall be substituted;

(ii) for the words "one year and also with fine", the words "one year, or with fine, or with both" shall be substituted.

18. After section 39 of the principal Act, the following section shall be inserted, namely:—

Insertion of
new section
39A.

'39A. Whoever—

Penalty for
short
measurement,
etc.

(a) in selling any article or thing by weight, measure or number, delivers or causes to be delivered to the purchaser any quantity or number of that article or thing less than the quantity or number contracted for or paid for; or

(b) in rendering any service by weight, measure or number, renders that service less than the service contracted for or paid for; or

(c) in buying any article or thing, by weight, measure or number, fraudulently receives, or causes to be received any quantity or number of that article or thing in excess of the quantity or number contracted for or paid for; or

(d) in obtaining any service by weight, measure or number, obtains that service in excess of the service contracted for or paid for,

shall be punished with fine which may extend to fifty thousand rupees, and, for the second or subsequent offence, with imprisonment for a term which may extend to one year, or with fine, or with both.

Explanation.—For the removal of doubts, it is hereby declared that the condition "contracted for or paid for" as required in clauses (a) to (d) shall not apply to any inspection made under Chapter VIII.

Amendment
of sections 40
and 41.

19. In sections 40 and 41 of the principal Act, for the words "one year and also with fine", in both the sections where they occur, the words "one year, or with fine, or with both" shall be substituted.

Amendment
of section 42.

20. In section 42 of the principal Act, for the words "three years and also with fine" the words "three years, or with fine, or with both" shall be substituted.

Substitution
of new
section for
section 44.

21. For section 44 of the principal Act, the following section shall be substituted, namely:—

Penalty for
contravention
of section 21.

"44. Except where he is permitted under the Standards Act so to do, whoever makes or manufactures any weight or measure which, though ostensibly purports to conform to the standards established by or under that Act, does not actually conform to the said standards, shall be punished with imprisonment for a term which may extend to one year, or with fine which may extend to two thousand rupees, or with both, and, for the second or subsequent offence, with imprisonment for a term which may extend to three years and also with fine."

Amendment
of section 45.

22. In section 45 of the principal Act,—

(a) for the words, "one thousand rupees" the words "two thousand rupees" shall be substituted;

(b) for the words "one year and also with fine", the words "one year, or with fine, or with both" shall be substituted.

Amendment
of section 46.

23. In section 46 of the principal Act,—

(a) for the words "one thousand rupees" the words "two thousand rupees" shall be substituted;

(b) for the words "one year and also with fine", the words "one year, or with fine, or with both" shall be substituted.

Amendment
of section 47.

24. In section 47 of the principal Act,—

(a) for the words "five hundred rupees", the words "ten thousand rupees" shall be substituted;

(b) for the words "one year and also with fine" the words "one year or with fine or with both" shall be substituted.

Amendment
of section 48.

25. In section 48 of the principal Act,—

(a) for the words "one thousand rupees" the words "five thousand rupees" shall be substituted;

(b) for the words "one year and also with fine" the word "one year, or with fine, or with both" shall be substituted.

Amendment
of section 49.

26. In section 49 of the principal Act, after the words "may extend to two years", the words "or with fine which may extend to five thousand rupees, or with both" shall be inserted.

Amendment
of section 50.

27. In section 50 of the principal Act, after the words "may extend to two years", the words "or with fine which may extend to ten thousand rupees," shall be inserted.

Amendment
of section 51.

28. In section 51 of the principal Act,—

(a) in sub-section (1), for the words "and, for the second or subsequent offence, with imprisonment for a term which may extend to five years and also with fine", the words " for the second offence, with fine which may extend to ten thousand rupees, and, for the third or subsequent offence, with imprisonment for a term which may extend to five years, or with fine which may extend to fifty thousand rupees, or with both" shall be substituted;

(b) for sub-section (2), the following sub-section shall be substituted, namely:—

“(2) Whoever manufactures or packs, or causes to be manufactured or packed, any commodity in packaged form lesser in weight, measure or number than the weight, measure or number, as the case may be, stated on the package or label thereon, or distributes or sells any commodity in packaged form, lesser in weight, measure or number than the weight, measure or number, as the case may be, stated on the package or label thereon, knowingly or having reason to believe that the commodity contained in such package is lesser, shall be punished with imprisonment for a term which may extend to two years, or with fine which may extend to twenty thousand rupees, or with both, and, for the second or subsequent offence, with imprisonment for a term which may extend to five years and also with fine.”.

29. In section 52 of the principal Act, for the words “one thousand rupees”, wherever they occur, the words “five thousand rupees” shall be substituted.

Amendment
of section 52.

30. In section 53 of the principal Act, for the words “two thousand rupees”, the words “five thousand rupees” shall be substituted.

Amendment
of section 53.

31. In section 54 of the principal Act, for the words “two thousand rupees”, the words “ten thousand rupees” shall be substituted.

Amendment
of section 54.

32. In section 56 of the principal Act,—

Amendment
of section 56.

(a) in sub-section (1), for the words “one thousand rupees”, the words “ten thousand rupees” shall be substituted;

(b) in sub-section (2), for the words “two thousand rupees”, the words “ten thousand rupees” shall be substituted.

33. In section 57 of the principal Act, in sub-sections (1) and (2), for the words “two thousand rupees” wherever they occur, the words “ten thousand rupees” shall be substituted.

Amendment
of section 57.

34. In section 58 of the principal Act, for the words “two thousand rupees”, the words “ten thousand rupees” shall be substituted.

Amendment
of section 58.

35. In section 61 of the principal Act, in sub-section (2), for the words “two thousand rupees”, the words “five thousand rupees” shall be substituted.

Amendment
of section 61.

36. In section 62 of the principal Act,—

Amendment
of section 62.

(a) for sub-section (1), the following sub-sections shall be substituted, namely:—

“(1) Where an offence under this Act has been committed by a company,—

(i) the person, if any, who has been nominated under sub-section (1A) to be in charge of, and responsible to, the company for the conduct of the business of the company (hereafter in this section referred to as the person responsible); or

(ii) where no person has been so nominated, every person who at the time the offence was committed was in charge of, and was responsible to, the company for the conduct of the business of the company; and

the company shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment provided in this Act if he proves that the offence was committed without his knowledge and that he exercised all due diligence to prevent the commission of such offence.

(1A) Any company may, by order in writing, authorise any of its directors to exercise all such powers and take all such steps as may be necessary or expedient to prevent the commission by the company of any offence under this Act and may give notice to the director or the concerned Controller or any officer authorised in this behalf by such Controller (hereafter referred as the authorised officer) in such form and in such manner as may be prescribed, that he has nominated such director as the person responsible, alongwith the written consent of such director for being so nominated.

Explanation.—Where a company has different establishments or branches or different units in any establishment or branch, different persons may be nominated under this sub-section in relation to different establishments or branches or units and the person nominated in relation to any establishment, branch or unit shall be deemed to be the person responsible in respect of such establishment, branch or unit.

(1B) The person nominated under sub-section (1A) shall, until—

(i) further notice cancelling such nomination is received from the company by the director or the concerned Controller or the authorised officer; or

(ii) he ceases to be a director of the company; or

(iii) he makes a request in writing to the director or the concerned Controller or the authorised officer under intimation to the company, to cancel the nomination (which request shall be complied with by the director or the concerned Controller or the authorised officer),

whichever is the earliest, continue to be person responsible:

Provided that when such person ceases to be a director of the company, he shall intimate the fact of such cesser to the director or the concerned Controller or the authorised officer:

Provided further that where such person makes a request under clause (iii), the director or the concerned Controller or the authorised officer shall not cancel such nomination with effect from a date earlier than the date on which the request is made.”;

(b) in sub-section (2),—

(i) for the word, brackets and figure “sub-section (1)”, the words “the foregoing sub-sections” shall be substituted;

(ii) after the words “other officer of the company,” the words, brackets, figure and letter “not being a person nominated under sub-section (1A),” shall be inserted.

Amendment
of section 65.

37. In section 65 of the principal Act, in sub-section (1),—

(a) for the word and figures “section 39”, the words and figures “section 37, section 38, section 39” shall be substituted;

(b) for the words “such sum as the Controller or such other officer may specify”, the words “such sum as may be prescribed” shall be substituted.

Substitution
of new
section for
section 70.

38. For section 70 of the principal Act, the following section shall be substituted, namely:—

Levy of fees
and collec-
tions thereof.

“70. (1) The Central Government may, having regard to time and labour that may be involved, prescribe such fee not exceeding—

(a) two thousand rupees, for the issue or renewal of a licence for making or manufacturing of any weight or measure;

(b) one thousand rupees, for the issue of a licence for repairing or selling of any weight or measure;

(c) five hundred rupees, for the alteration of any licence;

(d) ten thousand rupees on a graded scale, for the verification of any weight or measure;

(e) one hundred rupees, for the adjustment of any weight or measure;

(f) one hundred rupees, for the issue of a duplicate licence or certificate of verification;

(g) ten rupees, for every one hundred words or less, for the grant of copies of any document, not being a document of a confidential nature;

(h) five hundred rupees, for any appeal preferred under this Act.

(2) The State Government shall collect the prescribed fee under this section."

39. In section 71 of the principal Act,—

Amendment
of section 71.

(a) In sub-section (1), for the words "State Government", the words "Central Government" shall be substituted.

(b) In sub-section (2), for the words "State Government", the words "Central Government" shall be substituted.

40. In section 72 of the principal Act,—

Amendment
of section 72.

(a) in sub-section (1), for the words "The State Government may, by notification and after consultation with the Central Government", the words "The Central Government may, by notification," shall be substituted;

(b) in sub-section (2),—

(i) for clause (a), the following clauses shall be substituted, namely:—

"(a) the qualifications for being appointed as the Additional, Joint, Deputy and Assistant Controller and the Inspectors under section 5;

(aa) the class of goods, services, undertakings or users, in relation to which no transaction, dealing or contract or industrial production or use for protection shall be made or had or undertaken except by such weight, measure or number or in respect of which no transaction, dealing or contract shall be made except by such weighting or measuring, instrument as required under sub-section (1) or sub-section (1A) of section 10;"

(ii) sub-clause (i) of clause (b), clauses (d), (e) and (f) shall be omitted;

(iii) in clause (j), after the words "the controller", the words "or any officer authorised by him" shall be inserted;

(iv) clause (m) shall be omitted;

(v) for clauses (n) and (o), the following clauses shall be substituted, namely:—

"(n) the weight or measure for the verification of which steps to be taken by the Inspector under sub-section (3) of section 24.

(o) the form in which and the details with which a certificate of verification of any weight or measure as required under sub-sections (2), (3) and (4) of section 25 shall be granted;"

(vi) clause (r) shall be omitted.

(vii) after clause (i) the following clause shall be inserted, namely:—

“(ii) the form and the manner in which notice by a company may be given to the director or the concerned Controller or the authorised officer under sub-section (2) of section 62;

(iii) the amount of money to be paid for credit to the State Government under sub-section (1) of section 65.”;

(c) in sub-section (3), for the words “the State Government may”, the words “the Central Government may” shall be substituted;

(d) for sub-section (5), the following sub-section shall be substituted, namely:—

“(5) Every rule made by the Central Government under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.”.

Amendment
of section 73.

41. In section 73 of the principal Act, in sub-section (2), for the words and figures “section 39, section 40 or section 41”, the words and figures “section 36, section 37 or section 38” shall be substituted.

Insertion of
new section
74A.

42. After section 74 of the principal Act, the following section shall be inserted, namely:—

Transitional
provisions.

“74A. (1) Every Additional, Joint, Deputy and Assistant Controller and Inspector appointed immediately before the commencement of the rules made under sub-section (1A) of section 5 shall, on such commencement, be deemed to have been appointed under section 5, notwithstanding any rule prescribing different qualifications.

(2) Any rules made by a State Government under the principal Act which are in force immediately before the commencement of the Standards of Weights and Measures (Enforcement) Amendment Act, 2005, shall remain in force until the Central Government make rules in that behalf.”.

STATEMENT OF OBJECTS AND REASONS

The Standards of Weights and Measures (Enforcement) Act, 1985 was enacted with a view to provide for enforcement, by the State Governments, of standards of weights and measures established by or under the Standards of Weights and Measures Act, 1976.

2. Since the enactment of the Act, there have been advancement in international practices and development in technological innovations in the field of legal metrology. In order to keep pace with such advancement, to absorb new technological innovations and to provide for better protection to consumers, the necessity to amend the aforesaid enactment. The proposed amendments, *inter alia*, seek to provide for,—

(a) prescribing the qualifications for appointment of Additional, Joint, Deputy and Assistant Controllers of Legal Metrology and Inspectors under the Act for providing quality and professional service, beneficial to consumers and industries;

(b) providing for issue of guidelines by the Central Government for uniform implementation of the provisions of the enactment;

(c) doing away with the requirement of registration of users of weight or measure with enforcement officers;

(d) validating the licence for the whole of the country, for manufacture and repair of weight or measure issued by a State Government and enabling the Central Government also to issue such all India licence, for convenience;

(e) revising penalties for various offences under the enactment to make the provisions more deterrent; and

(f) empowering the Central Government to prescribe fee, to be levied by the State Governments, for the purpose of uniformity of fee.

3. The Bill seeks to achieve the above objects.

SHARAD PAWAR.

Notes on Clauses

Clause 2.—This clause of the Bill seeks to prescribe qualifications for appointment of Additional, Joint, Deputy and Assistant Controller of Legal Metrology and Inspector and also provide for the Controller of Legal Metrology to function subject to such general or special directions, as the Director may give and such direction shall be binding on the Controller.

Clause 3.—This clause seeks to prescribe user friendly weighing or measuring instrument in certain fields of transactions.

Clause 4.—This clause seeks to omit section 12 as it has become obsolete.

Clause 5.—This clause seeks to empower the Central Government to prescribe the weight or measure where certificate could be issued as a mark of verification instead of sealing the same.

Clause 6.—This clause seeks to omit sections 16, 17 and 18 as they are hindrance to trade.

Clause 7.—This clause seeks to provide for issue of manufacturing and repairing licence on all India basis by the Central or a State Government with a view to streamline the process of selling of weights and measures by any user.

Clause 8.—This clause seeks to omit clause (b) of section 21, which prohibit the additional inscription of non-metric units on measuring instruments, as people are still not conversant with the metric units in certain areas.

Clause 9.—This clause seeks to omit the requirement of verification of weights or measures under section 22 as such provision already exists under section 24 of the Act.

Clause 10.—This clause seeks to empower the special verification agents to verify prescribed weighing or measuring instrument. It also seeks to do away with the requirement of prescribing the re-verification period of weighing or measuring instrument by the States as it is proposed to empower the Central Government to prescribe in this behalf. Certain procedure for verification of weight or measure is also proposed to be prescribed.

Clause 11.—This clause seeks to make some alignment changes in the provisions of the Act for the purpose of clarity.

Clause 12.—This clause seeks to provide for ensuring that the measuring instruments verified by special verification agents ought not to be taken up again for verification by the Inspectors.

Clause 13.—This clause seeks to provide for regulation of packaged commodities during the course of intra-State transactions.

Clause 14.—This clause seeks to make changes in the provisions relating to regulation of packaged commodities for aligning them with the requirements of the Standards of Weights and Measures Act, 1976.

Clause 15.—This clause seeks to provide for penalty for counterfeiting of seal, for tampering or fraudulent use of weighing or measuring instrument.

Clause 16.—This clause proposes to revise the penalty for sale of commodity or service rendered by non-standard weights or measures. It also provides to exempt certain category of trade or service from the requirement of selling by standard weight or measure due to practical considerations.

Clauses 17 and 18.—These clauses seek to amend section 39 to divide it in to two sections namely, section 39 relating to penalty for keeping non-standard weight or measure and section 39A relating to penalty for short measurement.

Clauses 19 to 35.—These clauses seek to revise the penalties provided under sections 40, 41, 42, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 56, 57, 58 and 61.

Clause 36.—This clause seeks to provide for enabling a company to nominate one of its directors for ensuring compliance with the provisions of the Act.

Clause 37.—This clause seeks to provide for compounding of offences for violation of sections 37 and 38 and also provide for the compounding of fine for uniformity.

Clause 38.—This clause seeks to revise the maximum fees and empowers the Central Government to prescribe the fee to be levied within these limits.

Clause 39.—This clause seeks to empower the Central Government to delegate its powers excisable under the legislation to subordinate officers for administrative convenience.

Clause 40.—This clause seeks to provide for enabling the Central Government to make rules to carry out the provisions of the legislation.

Clause 41.—This clause seeks to rectify some printing error in the Act.

Clause 42.—This clause seeks to provide for transitional provision for protecting the interest of enforcement officers already functioning in the States with lesser qualification than those proposed to be prescribed under section 5 of the Act.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 40 of the Bill seeks to amend section 72 of the Standards of Weights and Measures (Enforcement) Act, 1985, which provides for power to make rules by the Central Government. Sub-section (2) of that section enumerates in detail the matters with respect to which rules may be made. The matters in respect of which rules may be made under the Bill relate, *inter alia*, to prescribing the qualifications for being appointed as the Additional, Joint, Deputy and Assistant Controller of Legal Metrology and the Inspectors under section 5, prescribing the class of goods, services, undertakings or users, in relation to which no transaction, dealing or contract or industrial production or use for protection shall be made or had or undertaken except by such weight, measure or number under sub-section (1), or in respect of which no transaction, dealing or contract shall be made except by such weighing or measuring instrument under sub-section (1A), of section 10, the weight or measure where certificate could be issued or a mark of verification instead of sealing the same, the weight or measure which are required to be verified by special verification agents under sub-section (3) of section 24, prescribe the weight or measure which are required to be verified at the place of its location under section 24(3), the form in which and the details with which a certificate of verification of any weight or measure under section 25 be granted, the form and the manner in which notice by a company may be given to the Director or the concerned Controller or the authorised officer under sub-section (2) of section 62, the amount of money to be paid for credit to the State Government under sub-section (1) of section 65 and the fees that may be levied under sub-section (1) of section 70.

2. The matters with respect to which such rules may be made pertain to matters of administrative procedure or detail. The delegation of legislative power is, therefore, of a normal character.

II**BILL No. XXX OF 2005**

A Bill further to amend the Standards of Weights and Measures Act, 1976.

BE it enacted by Parliament in the Fifty-sixth Year of the Republic of India as follows:—

1. (1) This Act may be called the Standards of Weights and Measures (Amendment) Act, 2005.

(2) It shall come into force on such date as the Central Government may, by notification, appoint.

Short title
and
commence-
ment.

Amendment
of section 2.

2. In section 2 of the Standards of Weights and Measures Act, 1976 (hereinafter referred to as the principal Act),—

(a) after clause (n), the following clause shall be inserted, namely:—

“(na) “Legal Metrology” means that part of metrology which treats units of measurement, methods of measurement and measuring instruments, in relation to the mandatory technical and legal requirements which have the object of ensuring public guarantee from the point of view of security and accuracy of the measurements;”;

(b) for clause (o), the following clause shall be substituted, namely:—

“(o) “manufacturer”, in relation to any—

(a) weight or measure, means a person who, or a firm or a Hindu undivided family, which,—

(i) makes or manufactures such weight or measure,

(ii) makes or manufactures one or more parts, and acquires the other parts, of such weight or measure and, after assembling those parts, claims the end product to be a weight or measure manufactured by himself or itself, as the case may be,

(iii) does not make or manufacture any part of such weight or measure but assembles parts thereof made or manufactured by others and claims the end product to be a weight or measure manufactured by himself or itself, as the case may be,

(iv) puts, or causes to be put, his or its own mark on any complete weight or measure made or manufactured by any other person and claims such product to be a weight or measure made or manufactured by himself or itself, as the case may be.

Explanation.—Where any manufacturer despatches any weight or measure or any part thereof to any branch office maintained by him or it, such branch office shall not be deemed to be a manufacturer even though the parts so despatched to it are assembled at such branch office;

(b) commodity in packaged form, means a person who, or a firm or a Hindu undivided family which, produces, makes or manufactures such commodity and includes a person who, or a firm or a Hindu undivided family which, puts, or causes to be put, any mark on any packaged commodity, not produced, made or manufactured by him or it, and the mark claims the commodity in the package to be commodity produced, made or manufactured by such person, firm or Hindu undivided family, as the case may be;”;

(c) in clause (y), in the *Explanation*, for the word “branding”, the words “branding, affixing pre-stressed paper seal” shall be substituted.

Substitution of
new section
for sections 5
to 11.

Base unit

3. For sections 5 to 11 of the principal Act, the following section shall be substituted, namely:—

“5. The base unit of—

(i) length shall be the metre;

(ii) mass shall be the kilogram;

(iii) time shall be the second;

- (iv) electric current shall be the ampere;
- (v) thermodynamic temperature shall be the kelvin;
- (vi) luminous intensity shall be the candela; and
- (vii) amount of substance shall be the mole,

and the definition of base unit of measures under sub-clauses (i), (iii) to (vii) and the definition of base unit of mass under sub-clause (ii) shall be such as may be prescribed."

4. In section 14 of the principal Act, for sub-section (1), the following sub-section shall be substituted, namely:—

Amendment
of section 14.

"(1) The base unit of mass and measures specified in section 5 and the supplementary and other units specified by rules made under section 12, shall be the standard units of weight or measure, as the case may be."

5. In section 19 of the principal Act, in sub-section (1), after the word "tolerances", at both the places where it occurs, the words "period of re-verification," shall be inserted.

Amendment
of section 19.

6. Section 23 of the principal Act shall be omitted.

Omission of
section 23.
Substitution
of new
section for
section 24.

7. For section 24 of the principal Act, the following section shall be substituted, namely:—

"24. (1) The Central Government shall cause to be prepared, for the purposes of this Act, as many sets of reference standards as it may think necessary and shall keep such sets of reference standards at the Regional Reference Standards Laboratories and at such other places and in such custody as may be prescribed.

Central
Government
to keep
reference
standards.

(2) Every reference standard referred to in sub-section (1) shall be verified and authenticated in such manner as may be prescribed."

8. In section 26 of the principal Act,—

Amendment
of section 26.

(a) in sub-section (1), after the words "reference standard", the words "on payment of such fee and" shall be inserted;

(b) in sub-section (2), after the words "by such authority", the words "and on payment of such fee" shall be inserted.

9. After section 27 of the principal Act, the following section shall be inserted, namely:—

Insertion of
new section
27A.

"27A. (1) There shall be established by the Central Government, at such places as it thinks fit, Regional Reference Standards Laboratories for keeping and maintaining the standards of Legal Metrology.

Establishment
of Regional
Reference
Standards
Laboratories.

(2) The management and control of the Regional Reference Standards Laboratories shall be carried on in such manner as may be prescribed.

(3) The duties and the functions of the Regional Reference Standards Laboratories shall be such as may be prescribed."

10. Section 30 of the principal Act shall be re-numbered as sub-section (1) thereof, and,—

Amendment
of section 30.

(a) in sub-section (1) as so re-numbered, after the words "the Central Government", the words "or, as the case may be, the State Government" shall be inserted;

(b) after sub-section (1) as so re-numbered, the following sub-section shall be inserted, namely:—

“(2) Every weight, measure or other goods seized under section 29 but not forfeited under sub-section (1) shall be disposed of by such authority and in such manner as may be prescribed.”.

Amendment
of section 32.

11. In section 32 of the principal Act,—

(a) after sub-section (1), the following sub-section shall be inserted, namely:—

“(1A) Notwithstanding anything contained in sub-section (1), the Central Government may, by rules made in this behalf, direct, in respect of those class of goods or services or undertakings or users specified therein, that no transaction, dealing or contract shall be made except by such weighing or measuring instrument as may be specified in such rules.”;

(b) in sub-section (2), after the word, brackets and figure “sub-section (1)”, the words, brackets, figure and letter “or sub-section (1A)” shall be inserted.

Amendment
of section 33.

12. In section 33 of the principal Act, for clauses (d), (e) and (f), the following clauses shall be substituted, namely:—

“(d) indicate the weight, measure or number of pieces of the commodity contained in the package, either on package itself or on any label, carton or other thing affixed thereto, or

(e) express, in relation to any transaction, industrial production or protection, any quantity or dimension.”.

Amendment
of section 36.

13. In section 36 of the principal Act,—

(a) in sub-section (1), clauses (a) and (e) shall be omitted;

(b) in sub-section (7), after the words “in respect of that model”, the words “subject to such terms and conditions, including the period of its validity, as may be prescribed” shall be inserted;

(c) sub-section (8) shall be omitted.

Amendment
of section 39.

14. In section 39 of the principal Act,—

(a) in sub-section (1), for sub-clauses (iv), (v) and the *Explanation*, the following shall be substituted, namely:—

“(iv) the sale price of the commodity in the package; and

(v) the month and year of manufacture or packaging, as the case may be:

Provided that where a declaration similar to that under sub-clause (v) has been made, with regard to date of manufacture or packaging, or the date of expiry of the commodity manufactured or packaged, in accordance with the requirement under any other law for the time being in force, such declaration shall be deemed to be a declaration made under sub-clause (v).”;

(b) for sub-section (2), the following sub-section shall be substituted, namely:—

“(2) Every package to which this Part applies shall bear thereon the name and address of the manufacturer, packer or importer.”;

(c) after sub-section (9), the following sub-section shall be inserted, namely:—

“(10) Every prescribed retail dealer, selling commodities in packaged form, shall keep and maintain the prescribed weighing machine or measuring instrument in his premises to enable consumers to verify the net quantity in such package, free of cost.”.

Omission of
Chapter V of
Part IV.

15. In Part IV of the principal Act, Chapter V shall be omitted.

16. In Part IV of the principal Act, after Chapter V as omitted by section 15, the following Chapter shall be inserted, namely:—

Insertion of
new Chapter
VI in Part IV.

CHAPTER VI

VERIFICATION AND STAMPING OF WEIGHTS AND MEASURES BY SPECIAL VERIFICATION AGENTS

46A. In this Chapter, unless the context otherwise requires,—

Definitions.

(a) "Board" means the Central Advisory Board constituted under section 46B;

(b) "licence" means a licence issued under section 46D for the verification of specified weighing or measuring instrument;

(c) "special verification agent" means the person to whom a licence is issued and whose name is included in the register of special verification agents under section 46D;

(d) "specified weighing or measuring instrument" means the type of weighing or measuring instrument specified in the licence.

46B. (1) The Central Government may, by notification, constitute a Board to be called the Central Advisory Board to exercise the powers conferred on, and to perform the functions assigned to, it under this Act.

Constitution
of Board.

(2) The Board shall consist of the following members, namely:—

(a) the Additional Secretary or the Joint Secretary to the Government of India, in charge of Legal Metrology, in the Ministry or Department of the Central Government dealing with the weights and measures — *ex officio*, chairperson;

(b) a representative of the Ministry of Law and Justice (Department of Legal Affairs or Legislative Department) — member;

(c) a representative of any industry association as the Government may deem fit to nominate — member;

(d) a representative of the Bureau of Indian Standards — member;

(e) the Director — *ex officio*, member-secretary.

(3) The Board may associate with itself in such manner, and for such purposes, as may be prescribed, not more than four members from the industry, scientific organisation, voluntary consumer organisation of the concerned State and the Controller of Legal Metrology of the State or the Union territory concerned whose assistance or advice the Board may desire to obtain in performing any of its functions assigned to it.

(4) The members, other than the *ex officio* members, of the Board shall have such tenure as may be prescribed.

(5) The Board shall regulate its own procedure.

(6) The Board shall meet at least once in three months.

46C. (1) Any person, who intends to act as a special verification agent, shall make an application, within such time and containing such particulars including qualifications as may be prescribed, for the inclusion of his name in the register of special verification agents to be maintained for the purpose.

Application
for special
verification
agent.

(2) The register of the special verification agents shall be maintained in such form and in such manner as may be prescribed.

(3) The application referred to in sub-section (1) shall be made to the Director and every such application shall be made in such form, in such manner and on payment of such fees as may be prescribed.

Functions of
Board.

(4) On receipt of an application referred to in sub-section (1), the Director, after scrutinising such application and if found complete, shall forward the same to the Board for its consideration.

46D. (1) The Board may, after considering the application forwarded to it under sub-section (4) of section 46C and on being satisfied that the applicant fulfils the requisite qualifications, and that it is expedient in the public interest so to do, recommend to the Central Government for the issue of a licence to the applicant to carry out the verification and stamping of weighing or measuring instruments.

(2) The Central Government may, after considering the recommendation of the Board, issue a licence to the applicant specifying therein—

(i) the type of instrument of weight or measure and the number of such instruments the applicant shall verify and stamp;

(ii) the area within which the applicant shall carry out verification and stamping of instrument of weight or measure specified in the licence;

(iii) the period for which such licence shall be valid;

(iv) the terms and conditions of the licence,

and include the name of the applicant as a special verification agent in the register of special verification agents.

(3) The Central Government may notify the name and address of the special verification agent, the instruments of weight or measure and the number of such instruments he shall verify and the area within which such agent shall carry out verification and stamping of instruments of weight or measure, in such manner as it thinks appropriate.

(4) A special verification agent who intends to continue to act as such shall make an application, within ninety days before the date of expiration of his licence, for renewal of his licence, in such form, containing such particulars and on payment of such fee as may be prescribed.

Collection
and sharing of
verification
fees.

46E. (1) A special verification agent shall collect such fee, for the verification or re-verification of the specified weighing or measuring instrument, as may be prescribed.

(2) The special verification agent shall pay, out of the total fee collected under sub-section (1), seven per cent. to the State Government where, he is located and, verification is done and three per cent. to the Central Government, in such manner as may be prescribed.

Procedure for
verification.

46F. (1) Any person desirous of getting a specified weighing or measuring instrument verified by the special verification agent shall submit such instrument for verification and stamping to such agent and in such manner as may be notified under sub-section (3) of section 46D.

(2) Every special verification agent shall submit the details of verification and stamping done in respect of the weighing or measuring instruments, in such form and to such authority as may be prescribed.

(3) The special verification agent shall follow such procedure for verification of weight or measure and such time schedules as may be prescribed.

Inspection of
special
verification
agent.

46G. (1) The Central Government may appoint such inspection officers as it thinks fit to inspect the method or procedure of test adopted by the special verification agent.

(2) Every inspection officer appointed by the Central Government under sub-section (1) shall have the right to draw samples of verified weights or measures from the special verification agent.

(3) The manner of drawing the samples, the number of samples to be drawn, the method adopted for inspecting or testing the verified weights or measures and the manner of reporting shall be such as may be prescribed.

(4) The Central Government may, on report of the inspection officers or on the recommendation of the Board, suspend or cancel the licence of the special verification agent:

Provided that no such suspension or cancellation shall be made except after giving the special verification agent a reasonable opportunity of being heard.

17. In section 47 of the principal Act, in sub-section (3), for the words "ten rupees", the words "one thousand rupees" shall be substituted.

Amendment
of section 47.

18. In section 48 of the principal Act,—

Amendment
of section 48.

(a) in sub-section (1), after the word "restrictions", the words "and on payment of such fees," shall be inserted;

(b) in sub-section (2), for the words "in addition to specifying the net contents of such package in terms of the standards unit of weight or measure established by or under this Act, also specify the weight or the net contents thereof", the words "specify the net contents of such package" shall be substituted.

19. In section 50 of the principal Act, for the words "one thousand rupees", the words "five thousand rupees" shall be substituted.

Amendment
of section 50.

20. In section 51 of the principal Act, for the words "five thousand rupees", the words "twenty thousand rupees" shall be substituted.

Amendment
of section 51.

21. In section 52 of the principal Act,—

Amendment
of section 52.

(a) the words "exclusively for export," shall be omitted;

(b) for the words "two thousand rupees", the words "twenty-five thousand rupees" shall be substituted.

22. Section 53 of the principal Act shall be omitted.

Omission of
section 53.

23. In section 55 of the principal Act,—

Amendment
of section 55.

(a) for the words "two thousand rupees", the words "five thousand rupees" shall be substituted;

(b) for the words "one year and also with fine", the words "three years, or with fine, or with both" shall be substituted.

24. In section 56 of the principal Act,—

Amendment
of section 56.

(a) for the words "two thousand rupees", the words "five thousand rupees" shall be substituted;

(b) for the words "three years and also with fine", the words "three years, or with fine, or with both" shall be substituted.

25. In section 57 of the principal Act,—

Amendment
of section 57.

(a) in the marginal heading, for the words and figures "contravention of section 34", the words "short measurement" shall be substituted;

(b) for the words "five thousand rupees", the words "twenty-five thousand rupees" shall be substituted.

26. In section 58 of the principal Act,—

Amendment
of section 58.

(a) for the words "one thousand rupees", the words "five thousand rupees" shall be substituted;

- (b) for the words "six months and also with fine", the words "six months, or with fine, or with both" shall be substituted.
- Amendment of section 59. 27. In section 59 of the principal Act, for the words "five thousand rupees", the words "twenty thousand rupees" shall be substituted.
- Amendment of section 60. 28. In section 60 of the principal Act,—
 (a) in sub-section (1), after the words "shall also be liable to fine", the words "which may extend to twenty thousand rupees" shall be inserted;
 (b) in sub-section (2), after the words "and also with fine", the words "which may extend to twenty thousand rupees" shall be inserted.
- Amendment of section 61. 29. In section 61 of the principal Act, for the words "five years and also with fine", the words "five years, or with fine, or with both" shall be substituted.
- Omission of section 62. 30. Section 62 of the principal Act shall be omitted.
- Substitution of new sections for section 63. 31. For section 63 of the principal Act, the following sections shall be substituted, namely:—
 "63. (1) Whoever, in the course of inter-State trade or commerce, makes, manufactures, packs, sells, distributes, delivers or otherwise transfers, offers, exposes or passes for sale, or causes to be sold, distributed, delivered or otherwise transferred, offered, exposed for sale any commodity in a packaged form which does not conform to the provisions of this Act, shall be punished with fine which may extend to five thousand rupees, for the second offence, with fine which may extend to ten thousand rupees, and, for the subsequent offence, with imprisonment for a term which may extend to five years or with fine which may extend to fifty thousand rupees, or with both.
 (2) Whoever, manufactures, packs, causes to be manufactured, packed, any commodity in packaged form, lesser in weight, measure or number than the weight, measure or number, as the case may be, stated on the package or label thereon, or distributes or sells any commodity in packaged form, lesser in weight, measure or number than the weight, measure or number, as the case may be, stated on the package or label thereon knowingly or having reason to believe that the commodity contained in such package is lesser shall be punished with imprisonment for a term which may extend to two years, or with fine which may extend to twenty thousand rupees, or with both, and, for the second or subsequent offence, with imprisonment for a term which may extend to five years and also with fine.
 63A. Any special verification agent who fails to comply with or contravenes the provisions of section 46E or section 46F or section 46G or the rules made thereunder, or the conditions of the licence, shall, in respect of such failure or contravention, be punished with imprisonment for a term which may extend to five years, or with fine which may extend to one lakh rupees, or with both, and in case the failure or contravention continues, with a further fine which may extend to five thousand rupees for every day after the first during which the failure or contravention continues."
- Penalty for contravention of section 46E or section 46F or section 46G. 32. In section 64 of the principal Act,—
 (a) for the words "one thousand rupees", the words "five thousand rupees" shall be substituted;
 (b) for the words "six months and also with fine", the words "six months, or with fine, or with both" shall be substituted.
- Amendment of section 65. 33. In section 65 of the principal Act, the words "or commodity in packaged form" shall be omitted.
- Amendment of section 66. 34. In section 66 of the principal Act, for the words "five thousand rupees", the words "fifty thousand rupees" shall be substituted.

35. In section 67 of the principal Act, for the words "two thousand rupees", the words "five thousand rupees" shall be substituted.

Amendment
of section 67.

36. In section 70 of the principal Act,—

Amendment
of section 70.

(a) in sub-section (1), for the words "one thousand rupees", the words "ten thousand rupees" shall be substituted;

(b) in sub-section (2), for the words "two thousand rupees", the words "ten thousand rupees" shall be substituted.

37. In section 71 of the principal Act,—

Amendment
of section 71.

(a) in sub-section (1), for the words "two thousand rupees", the words "ten thousand rupees" shall be substituted;

(b) sub-section (2) shall be omitted.

38. In section 73 of the principal Act,—

Amendment
of section 73.

(a) in sub-section (1),—

(i) after the words "officer may specify", the words "which shall be binding on the enforcement authorities" shall be inserted;

(ii) after the proviso, the following *Explanation* shall be inserted, namely:—

Explanation.—For the purposes of this sub-section, "enforcement authorities" means the Controllers and other officers appointed under sub-section (1) of section 5 of the Standards of Weights and Measures (Enforcement) Act, 1985.;

54 of 1985.

(b) in sub-section (3), for the words "compounded, and the offender, if in custody, shall be discharged forthwith", the word "compounded" shall be substituted.

39. In section 74 of the principal Act,—

Amendment
of section 74.

(a) for sub-section (1), the following sub-sections shall be substituted, namely:—

"(1) Where an offence under this Act has been committed by a company,—

(a) (i) the person, if any, who has been nominated under sub-section (1A) to be in charge of, and responsible to, the company for the conduct of the business of the company (hereafter in this section referred to as the person responsible); or

(ii) where no person has been so nominated, every person who at the time the offence was committed was in charge of, and was responsible to, the company for the conduct of the business of the company;

(b) the company,

shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment provided in this Act if he proves that the offence was committed without his knowledge and that he exercised all due diligence to prevent the commission of such offence.

(1A) Any company may, by order in writing, authorise any of its directors to exercise all such powers and take all such steps as may be necessary or expedient to prevent the commission by the company of any offence under this Act and may give notice to the Director or the concerned Controller or any

officer authorised in this behalf by such Controller (hereafter in this section referred to as the authorised officer) in such form and in such manner as may be prescribed, that it has nominated such director as the person responsible, along with the written consent of such director for being so nominated.

Explanation.—Where a company has different establishments or branches or different units in any establishment or branch, different persons may be nominated under this sub-section in relation to different establishments or branches or units and the person nominated in relation to any establishment, branch or unit shall be deemed to be the person responsible in respect of such establishment, branch or unit.

(1B) The person nominated under sub-section (1A) shall, until—

(i) further notice cancelling such nomination is received from the company by the Director or the concerned Controller or the authorised officer; or

(ii) he ceases to be a director of the company; or

(iii) he makes a request in writing to the Director or the concerned Controller or the authorised officer under intimation to the company, to cancel the nomination (which request shall be complied with by the Director),

whichever is the earliest, continue to be the person responsible:

Provided that when such person ceases to be a director of the company, he shall intimate the fact or such cesser to the Director or the concerned Controller or the authorised officer:

Provided further that where such person makes a request under clause (iii), the Director or the concerned Controller or the authorised officer shall not cancel such nomination with effect from a date earlier than the date on which the request is made.”.

(b) in sub-section (2),—

(i) for the word, brackets and figure “sub-section (1)”, the words “the foregoing sub-sections” shall be substituted;

(ii) after the words “secretary or other officer,” the words, brackets, figure and letter “not being a person nominated under sub-section (1A),” shall be inserted.

Amendment
of section 76.

40. In section 76 of the principal Act, in sub-section (2), for the word “regulations”, the word “rules” shall be substituted.

Amendment
of section 78.

41. In section 78 of the principal Act, for the portion beginning with the words “users or goods” and ending with the words “making any enumeration”, the following shall be substituted, namely:—

“users, goods or pre-packed commodities and it shall be the duty of every person using the weight or measure or making any enumerations or manufacturer or packer of pre-packed commodities”.

Amendment
of section 81.

42. In section 81 of the principal Act, for sub-section (1), the following sub-section shall be substituted, namely:—

“(1) Subject to the provisions of sub-section (2), an appeal shall lie,—

(a) from every decision given or order made under Part IV or Part V or section 73 or section 74 of Part VI, by the Controller of Legal Metrology, to the Director of Legal Metrology; and

(b) from every decision given or order made by the Director of Legal Metrology under Part IV or Part VI, not being made in appeal under clause (a), to the Central Government or any officer specially authorised in this behalf by that Government.”.

43. In section 82 of the principal Act,—

Amendment
of section 82.

(a) for sub-section (1), the following sub-section shall be substituted, namely:—

“(1) the Central Government may, by rules made under section 83, specify such fees, not exceeding—

(a) ten thousand rupees, for the verification and stamping of a weight or measure of secondary or working standards within the meaning of section 26;

(b) ten thousand rupees, for verification of weights or measures or calibration of any measuring instrument in the Regional Reference Standards Laboratories as prescribed under sub-section (3) of section 27A;

(c) fifty thousand rupees, for the approval of the model of any weight or measure intended to be made or manufactured for sale, purchase, distribution or delivery in the course of any inter-State trade or commerce;

(d) one thousand rupees, for the registration of exporters or importers of weights or measures under sub-section (3) of section 47;

(e) one thousand rupees, for permission to export non-standard weights or measures under sub-section (1) of section 48;

(f) five hundred rupees, for any appeal preferred under this Act;

(g) ten rupees, for every one hundred words or less, for the grant of copies of any document not being a document of a confidential nature.”;

(b) in sub-section (2), after the words “registration made”, the words “, permission granted” shall be inserted.

44. In section 83 of the principal Act, in sub-section (2),—

Amendment
of section 83.

(i) clause (a) shall be re-lettered as clause (aa) and before clause (aa) as so re-lettered, the following clause shall be inserted, namely:—

“(a) the definition of base units of measures and base unit of mass under section 5;”;

(ii) clause (h) shall be omitted;

(iii) in clause (i), after the word “tolerances,”, the words “period of re-verification,” shall be inserted;

(iv) after clause (j), the following clause shall be inserted, namely:—

“(ja) the other places where and the custody in which the sets of reference standards shall be kept under sub-section (1) and the manner in which every reference standards be verified and authenticated under sub-section (2) of section 24;

(jb) the authority by which and the payment of fee on which the secondary standard and working standard referred to in section 25 may be verified under section 26;

(jc) the manner in which the management and control of the Regional Reference Standards Laboratories shall be carried on under sub-section (2), and the duties and functions of the Regional Reference Standards Laboratories under sub-section (3), of section 27A;”;

(v) after clause (k), the following clause shall be inserted, namely:—

“(ka) the authority by which and the manner in which the weight, measure or other goods seized under section 29 but not forfeited shall be disposed of;”;

(vi) after clause (l), the following clause shall be inserted, namely:—

“(la) weighing or measuring instrument which may be used in different transactions, dealing or contracts under sub-section (1A) of section 32;

(vii) after clause (p), the following clause shall be inserted, namely:—

“(pa) the terms and conditions subject to which the certificate of approval be issued and the period for which such certificate shall be valid under sub-section (7) of section 36;”;

(viii) after clause (u), the following clause shall be inserted, namely:—

“(ua) the retail dealers and the weighing machine or measuring instrument to be kept and maintained by the dealers in their premises under sub-section (10) of section 39;”;

(ix) clauses (v), (w) and (x) shall be omitted and after clause (x) as so omitted, the following clauses shall be inserted, namely:—

“(xa) the manner in, and the purpose for, which the Board may associate with itself persons from the fields specified in section 46B;

(xb) the tenure of members, other than *ex officio* members, of the Board;

(xc) the form in which, the time within which, the amount of fee and the particulars (including qualifications) with which an application for inclusion of name in the register of special verification agents under section 46C or the application for renewal of licence to act as special verification agent under section 46D shall be made to the Director;

(xd) the form in which the register of special verification agents and the manner in which such register shall be maintained;

(xe) the period for which and the conditions and limitations subject to which licence may be granted;

(xf) the fee for verification or re-verification of specified weighing or measuring instrument under sub-section (1) of section 46E;

(xg) the manner of making payment of percentage of fee collected by the special verification agent to the Central Government and, the State Government concerned;

(xh) the form in which and the authority to which the details of verification and stamping done by the special verification agent shall be submitted;

(xi) the procedure to be adopted by the special verification agent for verification of weight or measure and the time schedule to be maintained for verification;

(xj) the manner of drawing the samples, the number of samples to be drawn and the manner of testing and reporting by the inspection officer;”;

(x) clause (za) shall be re-lettered as clause (zaa) and before clause (zaa) as so re-lettered, the following clause shall be inserted, namely:—

“(za) the manner in which the management and control of the Indian Institute of Legal Metrology shall be carried on under sub-section (2) of section 76;”;

(xi) after clause (zb), the following clause shall be inserted, namely:—

“(zbb) the form and the manner in which notice to the Director or the concerned Controller or the authorised officer may be given under sub-section (1A) of section 74;”.

45. After section 85 of the principal Act, the following section shall be inserted, namely:—

Insertion of
new section
86.

“86. The Regional Reference Standards Laboratories established by the Central Government for keeping and maintaining the standards of Legal Metrology before the commencement of the Standards of Weights and Measures (Amendment) Act, 2005 shall be deemed to have been established under this Act with effect from the 14th day of September, 1976 as if the provisions of section 27A were in force at all material times.”.

Validation of
establishment
of Regional
Reference
Standards
Laboratories.

STATEMENT OF OBJECTS AND REASONS

The Standards of Weights and Measures Act, 1976, is based on the then prevailing international practices, which provides for establishing standards of weights and measures for regulation of inter-state trade or commerce in weights, measures and the goods which are sold or distributed by weight, measure, or number.

2. Since its enactment, there has been advancement in International practices and technological innovations made in the field of Legal Metrology. It was felt that the advancement and technological innovations should be reflected in the enactment and also a better protection to consumers should be provided. It has, therefore, become essential to make amendments in the enactment. Hence, the amendments, *inter alia*, seek to provide for,—

(a) keeping weighing machines and measuring instruments by prescribed retail dealer for the purpose of use by consumers to check the quantity of products;

(b) appointing special verification agents for verification of sophisticated weighing machines or measuring instruments;

(c) using specified weight or measure, which are user friendly, in public transaction;

(d) nominating a Director by a company who shall be responsible for complying with the provision of the enactment;

(e) multiple sealing of weight and measure with a view to prevent fraudulent practices;

(f) permitting manufacturers to inscribe the non-metric units in addition to metric units on certain measuring instruments for information of consumers and for the smooth transition from non-metric to metric units;

(g) providing statutory backing for establishing and regulating the Regional Reference Standards Laboratories;

(h) enhancing the amount of fine for violation of provisions relating to regulation of pre-packed commodities;

(i) simplifying the procedure of verification and stamping of weight and measure in relation to inter-state trade;

(j) empowering the Central Government to conduct survey or collect statistics in respect of implementation of standards of weights, measures or numeration; and

(k) revising fee for various services provided under the provisions of the enactment to make such fee commensurate with the services rendered.

3. The Bill seeks to achieve the above objects.

SHARAD PAWAR.

Notes on clauses

Clause 2.—This clause seeks to amend section 2 of the Standards of Weights and Measures Act, 1976 so as to define certain expressions used in the Bill.

Clauses 3 and 4.—These clauses seek to substitute sections 5 to 11 and amend section 14 to empower the Central Government to define the base units under rules made in this behalf to facilitate adoption of new definition as and when changes occur due to scientific development.

Clause 5.—This clause seeks to amend section 19 to provide for prescribing the re-verification period of weight or measure by Central Government for the purpose of uniformity.

Clause 6.—This clause seeks to omit section 23 for enabling inscription of non-standard units on certain measuring instruments in addition to metric units, for information of consumers and for smooth transition to metric system.

Clause 7.—This clause seeks to substitute section 24 to provide for keeping verified reference standards by the Central Government at the Regional Reference Standards Laboratories.

Clause 8.—This clause seeks to amend section 26 to empower the Central Government to prescribe fee to be charged for sets of reference supplied to the State Governments.

Clause 9.—This clause seeks to insert a new section 27A to empower the Central Government to establish Regional Reference Standards Laboratories for keeping and maintaining the Standards of Legal Metrology. The management and control of such laboratories shall be carried on in such manner as may be prescribed.

Clause 10.—This clause seeks to amend section 30 to provide for prescribing procedure for disposing of seized goods.

Clause 11.—This clause seeks to amend section 32 to empower the Central Government for prescribing the use of consumer friendly weighing or measuring instrument in certain field of activity.

Clause 12.—This clause seeks to amend section 33 to clarify further the provisions of that section with regard to quotations, etc.

Clause 13.—This clause seeks to amend section 36 to streamline provisions relating to model approval procedure in line with the international practices and also to omit some obsolete provisions with regard to exemption.

Clause 14.—This clause seeks to amend section 39 to revise the requirement of label in relation to packaged commodities to enable printing of month and year, omission of the requirement of printing unit sale price, provide for printing of name and address of manufacturer, packer or importer and also provide for prescribing weighing or measuring instrument to be kept in major retail shops to enable consumer to cross check quantity of products purchased.

Clause 15.—This clause seeks to omit Chapter V which contain provisions relating to inter-State trade and commerce in weight, measure or other goods.

Clause 16.—This clause seeks to insert a new Chapter to provide for introduction of a new system of verification for regulation of sophisticated weighing or measuring instruments by licensing special verification agent and for their regulation.

Clause 17.—This clause seeks to amend section 47 with a view to provide the upper limits of fee for application to be made for inclusion of his name in the register of exporter by a person who intends to commence or continue business as exporter or importer of any weight or measure.

Clause 18.—This clause seeks to amend section 48 to provide for collection of fee for providing Central Government permission for export of non-standard weight or measure. The requirement regarding restriction placed on export packages is proposed to be removed to help exports.

Clauses 19 to 29.—These clauses seek to amend sections 50, 51, 52, 53, 55, 56, 57, 58, 59, 60 and 61 to revise penalty specified in those sections.

Clause 30.—This clause seeks to omit section 62 which provides penalty for violation of the requirement of inter-State verification and stamping of weight or measure.

Clause 31.—This clause seeks to substitute section 63 to revise the penalty relating to violation of the requirement of packaged commodities and provides penalty for violation of the requirement relating to newly created special verification agents.

Clause 32.—This clause seeks to amend section 64 for revision of the penalty relating to non-registration of exporters or importers.

Clause 33.—This clause seeks to amend section 65 to take out export of commodity in packaged form, which does not conform to the standards of weights or measure, from the penal purview.

Clauses 34 and 35.—These clauses seek to amend sections 66 and 67 to revise the penalties in relation to import of non-metric measuring instrument and for contravention of provisions of the Act for which no penal provision has been made separately.

Clauses 36 and 37.—These clauses seek to amend sections 70 and 71 to revise penalty provision for giving false information or false returns, and for vexatious action.

Clause 38.—This clause seeks to amend section 73 to provide that offences compounded shall be binding on the enforcement authorities. It is also proposed to do away with the power to take offender to custody by enforcement authorities.

Clause 39.—This clause seeks to amend section 74 to provide for enabling a company to nominate one of their directors as the person responsible for complying with the provisions of the Act.

Clause 40.—This clause seeks to amend section 76 to provide that rules shall be made in place of regulations.

Clause 42.—This clause seeks to amend section 81 to provide for wider appeal provisions.

Clause 43.—This clause seeks to amend section 82 for enhancing the upper limits of fees subject to which the fee may be specified by rules for various service rendered under the Act.

Clause 44.—This clause seeks to amend section 83 to provide certain further rules that may be made under the Act.

Clause 45.—This clause seeks to validate the continuity of the Regional Reference Standards Laboratories which have been functioning since 1975.

FINANCIAL MEMORANDUM

Clause 9 of the Bill seeks to provide for the establishment of Regional Reference Standards Laboratories by the Central Government. The said laboratories are already functioning under the Department and the proposal is only to provide statutory backing to such existing Laboratories. The expenditure on such Laboratories will be met out of the budgetary allocation of the Department. Hence, no additional expenditure is likely to incur from the Consolidated Fund of India after the enactment of this legislation. The expenditure incurred on salaries of the staff of all Regional Reference Standards Laboratories during 2003-04 was Rs. 43 Lakhs and the verification or calibration fee collected by them in the said year was Rs. 66 Lakhs.

2. Clause 16 of the Bill seeks to empower the Central Government to establish a system of special verification agents for the verification of specified weighing machine or measuring instrument and to constitute a Central Advisory Board to exercise the powers conferred on it and to perform the functions assigned to it under this Bill. The special verification agents will collect fee for the verification of weighing machine or measuring instrument and out of the fee so collected, the special verification agents will pay three per cent. to the Central Government. In view of the aforesaid system, the additional work is proposed to be assigned to the Weights and Measures Unit which will entail an estimated recurring expenditure to the extent of Rupees one crore forty lakh per annum. The entire expenditure on the Weights and Measures Unit will be met out of that three per cent. fee paid to the Central Government by the special verification agents. The expenditure on the Central Advisory Board may be met out of the budgetary allocation of the Department.

3. In view of the above, there may not be any significant additional recurring or non-recurring expenditure required to be made from the Consolidated Fund of India.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 44 of the Bill seeks to amend section 83 of the principal Act which empowers the Central Government to make rules for carrying out the provisions of the enactment. The matters in respect of which amendments are proposed, include matters, relating to the definition of base units of measure and base unit of mass under section 5; the period of re-verification of weight or measure under section 19; other places where and the custody in which the sets of reference standards shall be kept under sub-section (1), and the manner in which every reference standard be verified and authenticated under sub-section (2), of section 24; the authority by which and the payment of fee on which the secondary standard and working standard referred to in section 25 may be verified under section 26; the manner in which the management and control of the Regional Reference Standards Laboratories shall be carried on under sub-section (2); and the duties and functions of the Regional Reference Standards Laboratories under sub-section (3), of section 27A; the authority by which and the manner in which the weight, measure or other goods seized under section 29, but not forfeited, shall be disposed of; the weighing or measuring instrument which may be used in different transaction, dealing or contract under sub-section (1A) of section 32; the terms and conditions subject to which the certificate of approval of model of weight or measure be issued and the period for which such certificate shall be valid under sub-section (7) of section 36; the retail dealers and weighing machine to be kept and maintained by such dealers in their premises under sub-section (10) of section 39; the manner in, and the purpose for, which the Board may associate with itself persons from the fields specified in section 46B; the tenure of members, other than *ex officio* members, of the Central Advisory Board; the form in which, the time within which, the amount of fee and the particulars (including qualifications) with which an application for inclusion of name in the register of special verification agents under sub-section (1), and the form in which the register of special verification agents and the manner in which such register shall be maintained under sub-section (2) of section 46C; the amount of fee for verification or re-verification of specified weighing or measuring instrument under sub-section (1), and the manner of making payment of percentage of fee collected by the special verification agent to the Central Government and the State Government concerned under sub-section (2), of section 46E; the form in which and the authority to which the details of verification and stamping done by him shall be submitted, the procedure to be adopted by the special verification agent for verification of weight or measure and the time schedule to be maintained for such verification under section 46F; the manner of drawing the samples, the number of samples to be drawn, and the manner of testing and reporting by the inspection officer under section 46G; the manner in which the management and control of the Indian Institute of Legal Metrology shall be carried on under sub-section (2) of section 76; the form and the manner in which notice to the Director or the concerned Controller or the authorised officer may be given under sub-section (1A) of section 74 and the maximum limits of fees to be levied under section 82.

2. The matters in relation to which such rules may be made are matters of administrative procedure and detail. The delegation of legislative power is, therefore, of a normal character.

YOGENDRA NARAIN,
Secretary-General.